

REMARKS/ARGUMENTS

Claims 24-28 were examined. The claims have been amended and canceled as noted above. Reexamination and reconsideration of the claims, as amended, are respectfully requested.

Applicants note that the Terminal Disclaimer filed in May contained a typographical error relating to the serial number. A substitute Terminal Disclaimer with the appropriate serial number (10/409,409) is submitted herewith. Applicants apologize for this error.

All examined claims were rejected over the Bergersen '420 patent for essentially the same reasons stated in the prior Office Action. In order to expedite prosecution, Applicants have amended independent claim 24 to incorporate the limitations previously set forth in dependent claim 27. Thus, the independent claim now recites that the protrusion "comprises a continuous protrusion disposed along the edge which is configured to contact one or more teeth along the gingival margin and interdental areas." Such continuous protrusion is illustrated, for example, in Figs. 15A and 15B.

Bergersen '420 never describes or illustrates any element or component formed continuously along the lower edge of the hollow cavity so that it will contact both the gingival margin and interdental areas. The Examiner relies on Fig. 6 as showing a continuous protrusion. Applicants point out that Fig. 6 and the related cross-sectional Fig. 8 do not show any continuous structure along the lower edge of the positioner of Bergersen. Indeed, the manufacturing process employed by Bergersen would not be expected to provide any protrusion disposed continuously along the lower edge of the hollow tooth cavity. The material which allegedly forms the protrusions is formed by placing a "soft moldable material 60" in the depression or trough of the positioner and then allowing the patient to bite into the trough. It would be expected that such a formation would extrude all material away from the gingival margin and at least some locations along the edge of the trough. In any event, there is clearly no teaching anywhere in Bergersen that any of the material 60 which is being added to the positioner be formed into a continuous

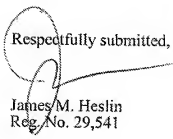
protrusion along the edge of the hollow cavity which is configured to contact one or more teeth along the gingival margin and the interdental areas.

CONCLUSION

For these reasons, Applicants believe that claim 24, as amended, clearly distinguishes the teachings of Bergersen '420. For that reason, Applicants believe that all remaining claims are in condition for allowance and request that the Application be passed to issue at an early date.

If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,


James M. Heslin
Reg. No. 29,541

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
JMH:jis

Attachment: *Terminal Disclaimer '409*
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